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TRADE AND DEVELOPMENT BOARD  
Commission on Investment, Technology  
and Related Financial Issues  
Expert Meeting on International Investment Agreements:  
Concepts Allowing for a Certain Flexibility  
in the Interest of Promoting Growth and Development  
Geneva, 24 March 1999  
Item 2 of the provisional agenda

PROVISIONAL AGENDA AND ANNOTATIONS

I. Provisional agenda

1. Election of officers
2. Adoption of the agenda
3. Concepts - such as exceptions and other mechanisms - allowing for a certain flexibility, including in the field of technological capacity-building, in the interest of promoting growth and development - to allow countries in different stages of development to benefit from international investment agreements
4. Adoption of the report.

## II. Annotations to the provisional agenda

### Item 1 - Election of officers

1. In accordance with UNCTAD practice, the Expert Meeting should elect Chairman and a Vice-Chairman-cum-Rapporteur.

### Item 2 - Adoption of the agenda

2. The provisional agenda for the Meeting is set out in section I above. Detailed programme will be available one week before the Meeting.

### Documentation

TD/B/COM 2/EM.5/1

Provisional agenda and annotations

### Item 3 - Concepts - such as exceptions and other mechanisms - allowing certain flexibility, including in the field of technological capacity-building, in the interest of promoting growth and development - to allow countries in different stages of development to benefit from international investment agreements

3. The Commission on Investment, Technology and Related Financial Issues, at its third session (14-18 September 1998), decided to convene an expert meeting on "concepts - such as exceptions and other mechanisms - allowing for a certain flexibility, including in the field of technological capacity-building, in the interest of promoting growth and development - to allow countries in different stages of development to benefit from international investment agreements, (TD/B/45/9, annex I).

4. The Expert Meeting on International Investment Agreements: Concepts Allowing for a Certain Flexibility in the Interest of Promoting Growth and Development is intended to continue the discussion on existing international agreements on investment and their implications for development which was initiated in 1997. The first expert meeting dealing with the topic on existing international investment agreements and their development dimensions (28-30 April 1997) focused on bilateral investment treaties (for the report of the Expert Meeting, see document TD/B/COM.2/5). The second expert meeting (1-3 April 1998) considered regional and multilateral investment instruments, giving special attention to the main objectives they pursue, as well as the scope of and key definitions in those instruments (for the report of the Expert Meeting, see document TD/B/COM.2/11).

5. International investment agreements (IIAs) have as their main objective the intensification of economic cooperation and the creation of favourable conditions for investment with a view to attracting foreign direct investment which is expected to contribute to the economic prosperity of the countries involved. In the case of agreements that involve developing countries, in particular, it is generally accepted that the promotion of development is an essential goal. A challenge facing countries is how to ensure that IIAs allow in an appropriate manner for the flexibility necessary to serve, in addition to the specific objectives of each instrument, the development needs of developing countries. Flexibility may be reflected in IIAs in a number of ways, for instance, by stating explicit development objectives, by establishing appropriate priorities, by structuring the agreement in the appropriate manner, by shaping the substantive provisions so as to serve development aims, by allowing exceptions and providing for differentiation in the contents or timing of the rights and obligations of the parties on the basis of their respective levels of development, and in several other ways. This meeting of experts will examine ways and means through which flexibility with respect to development concerns has been given effect in IIAs. It is suggested that the meeting focus on delimiting and clarifying the concept of flexibility in the context in which it is used here (that is to say, flexibility in the interest of development), reviewing the ways and means in which it is found in existing IIAs and, to the extent possible, evaluating the effectiveness of these ways and means in terms of promoting development while encouraging investment.

6. To facilitate the discussions, the UNCTAD secretariat has prepared an issues paper "International investment agreements and concepts allowing for flexibility in the interest of promoting growth and development - note by the UNCTAD secretariat" (TD/B/COM.2/EM.5/2). The paper is complemented by the secretariat's analytical studies on "Foreign Direct Investment and Development", "Admission and Establishment", "Most-Favoured-Nation Treatment", "Investment-Related Trade Measures", "Transfer Pricing" and "Scope and Definition". These studies will be published as an UNCTAD series on issues in international investment agreements. Additional background materials include Bilateral Investment Treaties in the mid-1990s (UNCTAD/ITE/IIT/7; the World Investment Report, 1996: Investment, Trade and International Policy Arrangements, (chapters V and VI); International Investment Instruments: A Compendium; Report of the Expert Meeting on Existing Agreements on Investment and their Development Dimensions, 28 to 30 May 1997 (TD/B/COM.2/5); and Report of the Expert Meeting on Existing Regional and Multilateral Agreements their Development Dimensions, 1-3 April 1998 (TD/B/COM.2/11).

Documentation

TD/B/COM.2/EM.5/2

International investment agreements and concepts  
allowing for flexibility in the interest of

promoting growth and development - Note by  
UNCTAD secretariat

Item 4 - Adoption of the report of the meeting

7. The Expert Meeting may wish to adopt agreed conclusions/recommendations at the end of the Meeting. The final report will be compiled under the authority of the Chairman after the conclusion of the Meeting.